

REMARKS

Applicants appreciate the consideration of the present application afforded by the Examiner. Claims 1-11 were pending prior to the Office Action. Claims 12-17 have been added through this Reply. Therefore, claims 1-17 are pending. Claims 1 and 11 are independent. Favorable reconsideration and allowance of the present application are respectfully requested in view of the following remarks.

Claim Rejections - 35 U.S.C. §101

Claim 11 stands rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. Applicants traverse the rejection.

As in the Response dated March 5, 2008, Applicants maintain that claim 11 as previously written is in fact directed toward statutory subject matter. However, in the interest of expeditious prosecution, through this reply Applicants have amended claim 11 to recite “*wherein, when read by a computer, the attendant data enables the at least one of the still images to be processed by an image service providing apparatus according to the image service represented by the attendant data.*” Applicants respectfully submit that the claim as amended clearly provides for information on the recording medium to be read out by a computer and recognized by the computer to perform an application for processing information. *See Office Action, p. 2, item 2.* Accordingly, claim 11 is directed toward statutory subject matter.

Applicants respectfully request that the §101 rejection of claim 11 be withdrawn.

Claim Rejections - 35 U.S.C. §102

Claims 1 and 11 stand rejected under 35 U.S.C. §102(e) as allegedly being anticipated by U.S. Patent No. 7,057,648 to Parulski et al. (“Parulski”). Applicants submit the Examiner has failed to establish a *prima facie* case of anticipation and traverse the rejection.

In order to establish a *prima facie* case of anticipation under 35 U.S.C. §102, the cited reference must teach or suggest each and every element in the claims. *See M.P.E.P. §2131; M.P.E.P. §706.02.* Accordingly, if the cited reference fails to teach or suggest one or more claimed elements, the rejection is improper and must be withdrawn.

As amended independent claim 1 recites, *inter alia*, “*an input unit for inputting a video image file obtained by adding, to video data representing a plurality of continuous time-sequential still images photographed by a photographing device as frames of a video image, attendant data representing an image service corresponding to processing for at least one of the still images included in the video data.*”

It has become clear that the Examiner has not fully appreciated the features of present invention with respect to the concept of adding attendant data representing an image service corresponding to processing for still images, wherein the still images are part of continuous video data. With this in mind, Applicants have amended independent claims 1 and 11 to more definitively recite that “video data” within the context of the instant application refers to data which represents a plurality of continuous time-sequential still images, where these still images are photographed as frames of a video image.

It has become increasingly common in the art for digital camera devices to have video acquisition capability in addition to taking discrete, non-continuous still images. As recognized by Applicants it is desirable to be able to specify image service to be applied to still images which are frames of video data, and to have the specified image service added to the video data itself as attendant data. Parulski fails to disclose attendant data representing an image service corresponding to processing for at least one still image, where the still image is one of a plurality of continuous time-sequential still images photographed as frames of a video image. In fact, Parulski fail to disclose video data in any regard.

Therefore, at least because Parulski fails to teach or suggest each and every claimed element, independent claim 1 is distinguishable from the prior art. Claim 11 has been comparably amended to recite that the video data represents a plurality of continuous time-sequential still images as frames of a video image, and is distinguishable from Parulski for the same reasons applied to claim 1 above.

Accordingly, Applicant respectfully requests that the rejection of claims 1 and 11 under 35 U.S.C. § 102(e) be withdrawn.

Claim Rejections - 35 U.S.C. §103(a)

Claims 2-10 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Parulski in view of U.S. Patent No. 6,762,791 to Schuetzle (“Schuetzle”). Applicants submit the Examiner has failed to establish a *prima facie* case of obviousness and traverse the rejection.

For a 35 U.S.C. § 103 rejection to be proper, a *prima facie* case of obviousness must be established. *See M.P.E.P. 2142*. One requirement to establish *prima facie* case of obviousness is that the prior art references, when combined, must teach or suggest all claim limitations. *See M.P.E.P. 2142; M.P.E.P. 706.02(j)*. Thus, if the cited references fail to teach or suggest one or more elements, then the rejection is improper and must be withdrawn.

In this instance, the combination of Parulski and Schuetzle fails to teach or suggest each and every limitation of claim 1. As demonstrated above, Parulski fails to teach or suggest “*an input unit for inputting a video image file obtained by adding, to video data representing a plurality of continuous time-sequential still images photographed by a photographing device as frames of a video image, attendant data representing an image service corresponding to processing for at least one of the still images included in the video data*” as recited in claim 1. Schuetzle has not been, and indeed cannot be, relied upon to correct at least this deficiency of Parulski. Dependent claims 2-10 are also distinguishable from the prior art at least due to their dependence from claim 1, directly or indirectly.

Therefore, Applicants submit that claims 2-10 are patentable over Parulski in view of Schuetzle and respectfully request that the rejection of claims 2-10 under §103(a) be withdrawn.

New Claims

New claims 12-17 have been added through this Amendment, and are considered to be in condition for allowance at least due to their dependence upon independent claims 1 and 11. No new matter has been entered.

CONCLUSION

All objections and rejections raised in the Office Action having been addressed, it is respectfully submitted that the present application is in condition for allowance. Notice of same is earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John R. Sanders Reg. No. 60,166 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

Dated: October 29, 2008

Respectfully submitted,

By

D. Richard Anderson

Registration No.: 40,439

BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road

Suite 100 East

P.O. Box 747

Falls Church, Virginia 22040-0747

(703) 205-8000

Attorney for Applicant